MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2021/2022

UCL1612 - CONSTITUTIONAL LAW I

(All Sections / Groups)

22 NOVEMBER 2021
Reading Time : 2:30pm – 2:45pm
(15 Minutes)
Answering Time: 2:45pm – 5:45pm
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Attempt **FOUR** out of **FIVE** questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of the following statutes into the exam venue;
   i. Federal Constitution
   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

COMPULSORY QUESTION

QUESTION 1

After the shock resignation of Tun Ibrahim as the Prime Minister, his most senior minister in the cabinet, Tan Sri Yaakob was appointed as the new Prime Minister of the country. In the first instance, the new Prime Minister enjoys tremendous support from the Parliament, as he commanded the confidence of the majority members of the Parliament. Everything went smoothly at the first instance, however just about five months after his appointment as the new Prime Minister, the country suddenly being hit by a global pandemic that affects all countries across the globe. The pandemic caused by a virus took countless lives worldwide, and the death toll is increasing in the country.

In response, the government has taken various measures to combat the pandemic, including appointing Dr Cheah, a young member of Dewan Rakyat from Tan Sri Yaakob's Unity party, as the new Health Minister. Dr Cheah was an accomplished expert on infectious diseases before he decided to join politics five years ago. The government also took several other measures to mitigate the side effect of the pandemic, including by introducing comprehensive economic stimulus and etcetera.

Even though the measures taken seem to promise a result, they did not fulfil its initial expectation. Despite the government's effort, the numbers of the reported cases are still on the rise. The failure of the government to address the issues has later brought into the scrutiny of the Members of the Parliament. Even the former Prime Minister, Tun Ibrahim, who is also a member of Parliament, slammed the government for its shortcomings in managing the pandemic and later publicly state his desire to return as the Prime Minister. He also reveals that Tan Sri Yaakob should not be appointed as the Prime Minister in the first place as he was not Malaysian born. Tun Ibrahim also accused Dr Cheah was involved in a corruption scandal involving a multi-million medical supplies transaction. He made both remarks during a parliamentary session that was televised all over the nation.

Dr Cheah immediately issued a separate press statement denying his involvement in the said scandal and wanted to sue Tun Ibrahim for defamation in response to the remark. In the same press statement, Dr Cheah also publically condemns the current strategies and policies employed by the Prime Minister in managing the pandemic. In reaction to that, Yan Sri Yaakob dismissed Dr Cheah from his cabinet and appointed a senator from Dewan Negara, Professor Karim, as the new Health Minister. Dr Cheah's dismissal angers Datuk Richard, his colleagues in Unity Party, who is also the current Transportation Minister. He was reportedly said vulgar words directing to Tan Sri Yaakob in a press conference. Datuk Richard later raised his concern to the Prime Minister during a closed-door cabinet meeting. However, the meeting turned heated, and in anger, Tan Sri Yaakob dismissed Datuk Richard from his cabinet post with immediate effect.

Continued…

Soon after Dr Cheah and Datuk Richard has been dismissed from the cabinet, both of them announced that they are withdrawing their support to the government and now become independent members of the Parliament.

Based on this development, the former Prime Minister, Tun Ibrahim, sought an audience with the Yang Dipertuan Agong. In the audience, he told the royal highness that Tan Sri Yaakob is no longer commanding confidence in the Parliament; therefore, he should be removed from his post as the Prime Minister. Tun Ibrahim also presented statutory declarations signed by the rest of the members of Parliament stating that they are supporting Tun Ibrahim to be re-appointed as the Prime Minister. Nevertheless, no vote of non-confidence has been passed against the Tan Sri Yaakob on the floor of Parliament as of today.

Based on the scenario above, discuss all issues involved all parties.

(Total: 25 marks)

ANSWER ANY THREE OUT OF THE FOLLOWING FOUR QUESTIONS.

QUESTION 2

"What is more important is to recognise and appreciate the many rich and varied interpretations which have been given to it, and to recognise the potential of the rule of law for ensuring limited governmental power and the protection of individual rights."

- Ahmad Masum, University Utara Malaysia

In light of A.V. Dicey's theory of the rule of law, discuss the extent of the application of the rule of law in Malaysia. Support your answer with relevant case laws and statutory provisions.

(Total: 25 marks)

QUESTION 3

"A constitution defines and limits the powers of the government it creates. It, therefore, follows, as a natural and also a logical result, that the governmental exercise of any power not authorized by the constitution is an assumed power, and therefore illegal."

-Thomas Paine

Continued…

Based on the statement above, discuss the application of the doctrine of Separation of Powers in our country, and support your answer with the related statutory provisions, and case laws.

(Total: 25 marks)

QUESTION 4

"The most positive feature of parliamentary system of government is that it produces strong and effective government. However, the great flaw of this system is that the Executive tends to "capture" the legislative process."

- Shad Saleem Faruqi, *Parliamentary Government*, Our Constitution

Discuss the efficacy of the various procedures available in the *Dewan Rakyat* for scrutinizing the government. In your opinion, are reforms necessary and why?

(Total: 25 marks)

QUESTION 5

"The first-past-the-post (FPTP) electoral system is one of the earliest mechanisms for electing legislative representatives, and it continues to be used for the lower (or sole elected) legislative chamber of four of the eight largest countries in the world to have been continuously democratic since shortly after the Second World War, including the two largest (India and USA). By one estimate, just over 43.5% of the world's population that lives in any of the 199 countries with direct legislations lives under FPTP"

- Matthew Soberg Shugart, Inherent and contingent Factors in Reform Initiation in Plurality Systems

State your opinion on the strengths and weaknesses of the first-past-the-post system (FPTP). Are reforms necessary? Give reasons in your answers.

(Total: 25 marks)

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